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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,473	06/30/2000	John P. Hearn	1-21-1	9558

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EXAMINER

BAROT, BHARAT

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

3

# Office Action Summary

Application No.

09/608,473

Applicant(s)

HEARN ET AL.

Examiner

Bharat N Barot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 20, 21, 26, 27, 31, 34-36 and 40-43 is/are rejected.
- 7) ☒ Claim(s) 7-19, 22-25, 28-30, 32-33, and 37-39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **RESPONSE TO AMENDMENT**

1. Claims 1-43 remain for further examination. Applicants' amendments and arguments with respect to claims 1-43 filed on January 23, 2004 (Paper Number 08) have been fully considered.

### **The old rejection maintained**

2. The rejection is respectfully maintained as set forth in the last Office Action (Paper Number 06) mailed on October 06, 2003. Applicants' arguments with respect to claims 1-43 have been fully considered but they are deemed to be moot and old rejection maintained.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1 the phrase "may be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Other dependent claims, which are not specifically cited above are also rejected because of the deficiencies of their respective parent claims.

**Claim Rejections - 35 USC § 102**

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-6, 20-21, 26-27, 31, 34-36, and 40-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Mimura et al (U.S. Patent No. 6,557,031).

Mimura's patent discloses all the limitations for the claims 1-6, 20-21, 26-27, 31, 34-36, and 40-43 recited in the claimed invention.

7. As to claims 1-2 and 6, Mimura et al teach a method for processing an internet protocol (IP) packet, comprising the step of: identifying that said packet contains motion picture expert group (MPEG)-2 video as a function of only the contents of said IP data payload of said IP packet exclusive of any information in any real time protocol (RTP) header which therein, wherein said MPFG-2 video is in transport stream format; and processing said IP packet with a priority assigned for packets containing video when said packet is identified in said identifying step to contain video (figures 1-7; column 2 lines 28-54; and column 3 line 65 to column 4 line 65; and column 12 lines 17-46).

8. As to claims 3-5, Mimura et al teach that said IP data payload contains at least one real time protocol (RTP) packet which contains said MPEG-2 video; said IP data payload is a unreliable datagram protocol (UDP) data payload; and said IP data payload is a transmission control protocol (TCP) data payload (figures 1-7; column 1 lines 7-22; column 8 lines 24-45; column 2 lines 28-54; column 10 lines 13-42; and column 12 lines 17-46).

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9. As to claims 20-21, Mimura et al teach a method for processing an internet protocol (IP) packet, comprising the steps of: searching through a payload of said IP packet exclusive of any information in any real time protocol (RTP) header therein for a pattern indicative of the presence of motion picture expert group (MPEG)-2 video; indicating that said IP packet contains MPEG-2 video only if said pattern is found; and determining whether a payload of said IP packet has a length equal to an integral multiple of a length of an MPEG-2 transport stream packet either before or after subtracting from said payload length the length of an RTP head (figures 3-5; column 9 line 5 to column 12 line 15; and column 12 lines 17-46).

10. As to claim 26, Mimura et al teach said payload is at least one of a set of payloads within an IP packet, said set consisting of: a) an IP data payload, b) an unreliable datagram protocol (UDP) data payload that does not include a real time protocol (RTP) header, c) that portion of a UDP data payload after an RTP header that is included in said UDP data payload, and d) a transmission control protocol (TCP) data payload (figures 4-5; and column 12 lines 17-46).

11. As to claim 27, Mimura et al teach the step of processing said IP packet with a priority assigned for packets containing video when said indicating step indicates that said IP packet contains video (column 9 line 43 to column 10 line 11).

12. As to claims 31, 34-36, they are also rejected for the same reasons set forth to rejecting claims 20-21 above.

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13. As to claims 40-41, they are also rejected for the same reasons set forth to rejecting claims 20-21 above, since claims 34-51 are merely a program product for the method of operation defined in the method claims 20-21.

14. As to claims 42-43, they are also rejected for the same reasons set forth to rejecting claims 20-21 above, since claims 42-43 are merely an apparatus for the method of operation defined in the method claims 20-21.

#### **Claim Objections**

15. Claims 7-19, 22-25, 28-30, 32-33, and 37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Response to Arguments**

16. Applicant's arguments with respect to claims 1-43 filed on January 23, 2004 (Paper Number 08) have been fully considered but they are not deemed to be persuasive for the claims 1-43.

17. In the remarks, the applicant argues that:

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(A) Argument: Mimura et al. do not disclose that the IP packets do not come out from the sources because MPEG-TS packets are not IP packets.

Response: Mimura et al. suggest that the IP packets are used in the Internet instate of the MPEG-TS packets, and indirectly disclose that the IP packets come out from the sources (summary of the invention; column 2 lines 51-54; and column 12 line 48 to column 13 line 14).

(B) Argument: Mimura et al. do not teach searching through a payload of an IP packet and determining/comparing a length of an IP packet and an MPEG-2 transport stream packet.

Response: Mimura et al teach a method for processing an internet protocol (IP) packet, comprising the steps of: searching through a payload of said IP packet exclusive of any information in any real time protocol (RTP) header therein for a pattern indicative of the presence of motion picture expert group (MPEG)-2 video; indicating that said IP packet contains MPEG-2 video only if said pattern is found; and determining whether a payload of said IP packet has a length equal to an integral multiple of a length of an MPEG-2 transport stream packet either before or after subtracting from said payload length the length of an RTP head (figures 3-5; column 9 line 5 to column 12 line 15; and column 12 lines 17-46).

(C) Argument: Mimura et al. do not teach processing the IP packet with a priority assigned for packets containing video when said indicating step indicates that said IP packet contains video.

Response: Mimura et al teach the step of processing the IP packet with a priority assigned for packets containing video when said indicating step indicates that said IP packet contains video (column 9 line 43 to column 10 line 11).

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18. This action is made final. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

**Contact Information**

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (703) 305-4092. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

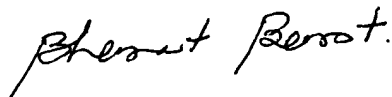
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (703) 308-6662. A central official fax number is (703) 872-9306.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

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May 18, 2004

  
**BHARAT BAROT**  
**PRIMARY EXAMINER**